2000 Annual Conference Report

The Canadian Association of Police Boards held its Eleventh Annual Meeting and Conference in Saint John, New Brunswick from August 24-26, 2000.

This publication documents the proceedings of the Annual Meeting, including Resolutions passed, and provides a summary of the plenary sessions, workshops and group discussions that took place at the Conference.

This year's Conference highlighted the theme of Technology in Policing: What the Future Holds.

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Special Guests at this year's conference included: Mayor Shirley McAlary, City of Saint John; The Honourable Anne McLellan, Minister of Justice and Attorney General of Canada; and Ms. Elsie Wayne, MP, Saint John, pictured here with Mike Badham, CAPB Past President and Dan MacLeod, CAPB President.

President's Report

CAPB President, Dan MacLeod, was pleased to welcome delegates to the 11th Annual Meeting and Conference of the Canadian Association of Police Boards. He extended special thanks to The Honourable Anne McLellan, Minister of Justice and Attorney General of Canada, for sharing some of the priorities of her Department with delegates during a luncheon address.

Mr. MacLeod began the conference by reporting on some of the Association's activities since the last annual meeting:

Human Resources Analysis of Public Policing in Canada - As part of a joint venture between the Canadian Association of Chiefs of Police (CACP), the Canadian Police Association (CPA) and Human Resource Development Canada (HRDC), the consulting firm of PricewaterhouseCoopers has been conducting a comprehensive study of human resources in public policing in Canada. The CAPB's Executive Director, Wendy Fedec, has been representing the Association as a member of the National Steering Committee overseeing this project. Through Ms. Fedec, the CAPB is ensuring that human resource issues of concern to you are addressed in this review. (see page 12 for more info on the Human Resources in Public Policing Study.)

CAPB President, Dan MacLeod

National Conference on Police and Private Security - Last November a very successful National Conference of Police and Private Security was held in Toronto. The Conference was organized by a committee of representatives from the Police and Security communities including the CAPB. The goal of the conference was to discuss a framework in which the Police and Private Security industry can cooperate in serving the public interest, improving future security and quality of life, and clarifying respective roles and responsibilities. The Conference was well attended and achieved it's goal of initiating dialogue between the two sectors.

Youth Criminal Justice Act - Following last year's conference, the CAPB submitted a formal response supporting the Federal Government's proposed legislation, the Youth Criminal Justice Act, intended to replace the Young Offenders' Act. In December 1999, Past President Mike Badham and Executive Director Wendy Fedec appeared before the House of Commons Justice Committee to present the Association's position. The CAPB will continue to track progress of this Bill through Parliament.

National Forum on Youth Gangs - Also in December 1999, Mr. MacLeod represented the Association at a National Forum on Youth Gangs. The two-day event, organized by the Minister of Justice and the Solicitor General of Canada, brought together Police and Government officials as well as researchers, community practitioners and youth to discuss the roles of police and the community response to youth involvement.

Annual Meeting with Ministers - In February 2000, the CAPB Board of Directors convened in Ottawa for their annual meeting with the Federal Minister of Justice and officials from the department of the Solicitor General. These meetings enhance the ongoing dialogue that takes place between the CAPB and the Ministers' offices. They provide an opportunity for the CAPB to convey its concerns directly to the Ministers and have been highly productive.

White Paper on Law Enforcement and Criminal Liability - The CAPB welcomed the release earlier this year of the Government's White Paper on Law Enforcement and Criminal Liability. The White Paper responds to a resolution passed at last year's conference calling for an exemption regime that would provide greater protection of police officers involved in undercover criminal investigative work. During the Conference, the CAPB was in the process of preparing a response to the White Paper based on comments received from it's members. (Note: The CAPB's response was submitted to the Federal Government in October.)

Mr. MacLeod concluded by reminding delegates to plan now to attend the CAPB's Twelfth Annual Meeting and Conference being held at the Delta Bessborough Hotel in Saskatoon, Saskatchewan from August 16-18, 2001. Complete Conference details will be available in April 2001.

Nomination Report

The Nominating Committee consisted of Mike Badham, retiring Past President (Regina); Grahame Baskerville (Ottawa-Carleton); and Henry Dayday (Saskatoon). The following individuals were elected as the CAPB Board of Directors and Executive for 2000/2001:

Executive:

Dan MacLeod, President New Glasgow/Westville, NS
Herb Kreling, Vice President Ottawa-Carleton, ON
Shirley Cordiner, Secretary-Treasurer Niagara, ON

Directors-at-Large:

Bob Dean, Edmonton, AB
Edward Keyes, Saint John, NB
Shelley Lavallee, Regina, SK
Don Robinson, Halton, ON
Eric Simmons, Victoria, BC
Florence Wong, Vancouver, BC

In a special presentation at the Conference banquet, retiring Past President Mike Badham was given an oil painting depicting an Ottawa winter scene in thanks and recognition of his tremendous contribution to the organization during his six years on the Board of Directors. Pictured are (l. to r.): Frederick Biro, former Executive Director of the CAPB, Mike Badham, and Wendy Fedec, current Executive Director.

Resolutions

The following resolutions received the support of the membership (preambles to resolutions have been omitted unless considered critical to an understanding of the issue):

Resolution 00-1:

Immigration and Criminal Activity

THEREFORE BE IT RESOLVED THAT the Canadian Association of Police Boards request an urgent and immediate joint audience with the Federal Immigration Minister, the Justice Minister and the Solicitor General of Canada:

        a.   so that a formal and decisive presentation can be made by the CAPB to express concerns over the nature, severity and extent of criminal activities by some immigrants;

        b.   to solicit support from the ministries to resolve the problem; and

c.   to request immediate corrective action, through immigration policy changes, be taken to provide the means for immediate deportation of those immigrants convicted of serious, violent or repetitive criminal offences.

Resolution 00-2: Support for Photo Radar

THEREFORE BE IT RESOLVED that the Canadian Association of Police Boards express its support for the introduction of photo radar and red light cameras throughout Canada as a means of preventing automobile accidents.

Resolution 00-3: Provincial Associations for Police Boards/Commissions

WHEREAS not all provinces currently have an organized/formalized provincial association that represents police commissions/committees/boards;

THEREFORE BE IT RESOLVED that the CAPB go on record as encouraging the formation of a provincial structure representing police commissions/ committees/boards, and that one of the mandates of such a provincial association would be the delivery of training through educational seminars, institutes and annual meetings for the benefit of all police commission, committee or board members at provincial levels.

Resolution 00-4:
Disarming of Police Officers

THEREFORE BE IT RESOLVED that the Canadian Association of Police Boards express support for the provision included in the Minister of Justice's Omnibus Bill C-17 that would make it a separate and distinct offence under the Criminal Code of Canada to disarm, or attempt to disarm, a police officer.

Resolution 00-5: Injuring of Endangering Police Animals

THEREFORE BE IT RESOLVED that the Canadian Association of Police Boards request the Minister of Justice to amend the Criminal Code of Canada to include a separate and distinct offence for persons who, willfully and without lawful excuse, kill, maim, wound, or poison a working animal being used by a peace officer engaged in the execution of their duty.

Resolution 00-6:
Communicable Disease Notification in Criminal Matters

THEREFORE BE IT RESOLVED that the Canadian Association of Police Boards express its support for Private Member's Bill C-244, which would permit access to information for police and emergency services personnel concerning verification of exposure to infectious diseases.

Resolution 00-7:
Auto Theft

THEREFORE BE IT RESOLVED that the Canadian Association of Police Boards call upon the federal government to:

1.   enact legislation to combat the growth of vehicle theft in our communities, which would include the creation of a new Criminal Code of Canada offence for removing or obliterating a VIN (vehicle identification number) marking and to provide increased penalties for persons convicted of vehicle theft;
2.   coordinate efforts with their provincial counterparts and stakeholders to:
    a.   focus enforcement and prosecution efforts on securing convictions and meaningful consequences for organized criminals profiting from the stolen vehicle industry; and
    b.   coordinate the implementation of anti-theft education programs aimed at reducing the opportunity for, and incidence of, vehicle theft in Canada.

Report on Break-Out Groups

Small Boards

Ed Keyes (Saint John) and Dan MacLeod (New Glasgow/Westville) served as facilitators for the small boards' break-out group.

Mr. Keyes reported that members discussed mandatory legislation introduced by some provinces requiring municipalities to have police boards. Delegates felt such legislation represents a shift toward removing the control of police forces from the political sphere, as such boards are primarily made up of citizens.

Much of the discussion among members of the small boards revolved around the RCMP contracting for services with small municipalities, and the difficulties some municipalities have had in getting the RCMP to evaluate their service requirements and provide a cost estimate. Members felt the RCMP can never provide the same level of service that municipal forces can. It was suggested that to avoid such problems, small boards should enter into cost sharing agreements with other municipalities.

Discussions were also held on: the pros and cons of holding a joint meeting or some overlap with the CACP conference; recruiting for small forces; the problems some services have had in accommodating officers on light duty; and the benefits of being associated with the CAPB, such as liaison with government officials and Ministers, and the opportunity to share ideas and resources and gain insight into what is happening in other parts of the country.

Members discussed options for generating more interest in attending the conference among members of small boards. It was suggested that the Board of Directors designate a representative in each province to initiate contacts with boards that are not members, and provide them with information about the CAPB.

Medium Boards

Mike Badham (Regina) and Eric Simmons (Victoria) facilitated the discussion among the medium boards. They reported there was general consensus that this type of discussion is very beneficial, and that opportunities for discussion earlier in the Conference might be useful also.

The medium boards focused on the issues of hiring criteria, community policing, and executive development.

In discussing hiring criteria it was suggested that perhaps boards are setting very high benchmarks. When extremely qualified individuals are brought in, issues arise with respect to their expectations, their mobility and their opportunities for advancement and promotion. Narrow promotion opportunities result in people leaving the organization instead of progressing within it. It was suggested that staff in supervisory positions could have difficulty coping with newly hired members who are perhaps more skilled and better educated than themselves. Members also discussed diversity in policing and issues surrounding actively recruiting minorities.

There was a diversity of opinions among members with respect to succession planning. Some felt that police services need the infusion of new members and boards should be outward looking. Others disagreed, suggesting that police services have a paramilitary structure in which members move incrementally through the ranks, which is in itself a succession planning opportunity. It was argued that if staff members are good when they are recruited, the service should invest in their training and development so they can aspire to supervisory and executive positions. It was also suggested that boards have a responsibility to ensure chiefs create a pool of individuals who have the desire and the potential for promotion to the executive level.

The group discussed the issue of community policing, whether it is still working and whether police services are still on the right track. It was noted that individual services continue to develop models for the communities they serve because different communities have different needs. Members suggested School Resource Officers are a very strong component of community policing, and officers benefit from the experience of working in a community policing environment. However, there must still be a balance between prevention and enforcement.

The group recommended that succession planning should be a focus at next year's conference.

Large Boards

Shirley Cordiner (Niagara) and Florence Wong (Vancouver) facilitated the large boards' break out session. Ms. Cordiner reported on the five main issues identified: the civilianization of administrative functions/positions in police services; the accountability of police boards; the increasingly political activity of police unions/associations and how boards can combat it; financing of police services; and the possibility of short-term inter-service secondments for additional training experience.

Members discussed the advantages and disadvantages of civilianizing certain administrative functions such as human resources, finance and recruitment. It was felt that hiring civilians as directors of human resources and finance results in less turn-over in those positions and puts more officers back out doing what they've been trained to do. It was also noted that cost savings can be realized because of the lower wages for civilians in some of those positions.

It was noted that police boards are more in the spotlight than ever before and members felt that boards are not getting consistent or clear leadership from their oversight bodies. Members expressed a need for better definition of authority and responsibility for their boards, and changes to the Police Services Act to allow longer terms for members because there is too much changeover.

When members discussed the increasingly political activities of police unions/associations, it was noted that some boards are having regular monthly meetings with their associations to foster an open-door policy and to discuss problems before they get to the grievance stage.

The main point to come out of the discussion on the financing of police services, which is becoming a major challenge, is the importance of strategic planning. It was noted that many boards in Ontario are using the three year business plan required under the new Provincial Adequacy Standards to plan for their service's future needs.

The group also discussed the advantages of having short-term, inter-service secondments to provide developmental and training opportunities for officers. It was agreed this would be an excellent resource for all services.

Discussion Groups & Workshops

Concurrent Workshops

A series of four concurrent workshops were held to give delegates an opportunity to share ideas and learn from one another. Each workshop began with a presentation from an individual chosen for their expertise in that topic. A synopsis of each workshop is provided below. The CAPB extends special thanks to the workshop leaders (identified below) as well as to Debbie Morton, Executive Assistant, Peel Regional Police Services Board and Michele Austad, Executive Director, Calgary Police Commission who served as recorders in the sessions. Their assistance was greatly appreciated.

Performance Measurements

Deputy Commissioner Bill Currie, Ontario Provincial Police, began by identifying three types of performance measures - input, output and outcomes. He defined 'input' as the amount of resources (money, staff, time) used to produce outputs; 'output' as the volume of work completed; and 'outcomes' as the goals intended to be achieved over the long-term.

Performance measurement determines the effectiveness, efficiency and level of customer service provided by police programs which must be considered in conjunction with the service's core business functions. It provides a mechanism for accountability and a basis for informed decision-making that drives change to achieve desired results. Performance measurement delivers a message that the process/result is important and communicates values that shape the culture of the organization. The purpose of performance measurement is to flag particular issues, not to explain "why things happen".

An effective approach used to measure performance is benchmarking. It compares several competitors and uses 'best practices' as a means of achieving better performance in the police service. Deputy Commissioner Currie recommended that Boards benchmark against industry and government services, as policing is a unique field that must be representative of the individual communities served.

He stated there were many challenges to measuring "police performance". For instance, performance indicators cannot isolate police performance from the socio-economic environment in which police services are delivered. The ability to balance operational culture with accountable delivery of policing services and cost factors must also be taken into consideration, as some measures may not be worth the investment required to collect and maintain information (i.e. DNA databanks).

Following the discussion, participants generally agreed that performance measurement is something Boards can't afford not to do.

On to [Board Governance](#)

Board Governance

Frederick Biro, Executive Director, Peel Regional Police Services Board, began the session by asking delegates to consider two basic premises that underpin board governance. The first is that the work of boards is important and can have a fundamental impact on the success of an organization. The second is that all boards, regardless of the sector in which they are in, face similar challenges and common issues of process. A number of examples were presented to the delegates on both points.

Following this introduction, delegates were asked to consider how boards fulfill their responsibilities. The key tool is policies. Boards direct actions through policies which fall into a number of broad categories, such as executive limitation, board processes, etc. Policies, to be

effective, will also generally have two components: governance and oversight. Governance sets out how something is (or is not) to be done, while oversight allows the board to ensure the policy is being followed. Delegates then explored the relationship between the board and its chief of police. Essentially boards have only "one" employee, namely the chief, who is responsible for putting the board's policies and priorities into action.

The latter part of the session saw delegates walk through a number of exercises, taken from 'real-life' dilemmas faced by police boards. It provided the basis for a quick review of how theory is put into practice.

At the conclusion, delegates were advised of sources of information on board governance, including a document published by the CAPB in 1994 entitled "Putting the Tools in Place", and a CD-Rom for new board members released by the CAPB in 1996.

On to Creating Constructive Conflict & Avoiding Destructive Conflict

Creating Constructive Conflict & Avoiding Destructive Conflict

Dr. Patricia Pitsel, Consultant, Pitsel & Associates Ltd., and a member of the Calgary Police Commission, began by explaining a model for conflict resolution, outlined in detail in a handout she provided. She noted the desired outcome in any conflict is a creative solution that acknowledges people's need to be valued and recognized as contributors. Conflicts that are most difficult to resolve (and those that are most frequently irresolvable) involve conflicting values and beliefs.

Dr. Pitsel noted it is the Chair's task to monitor and understand the personality, values and beliefs conflicts operating on the board, and between the board and the police service. She also warned that the "emotional" aspect of conflict is ignored at the peril of the board, as those members who feel disenfranchised by having their feelings and opinions downplayed or ignored are most likely to sabotage every project undertaken by the group.

Participants at each table shared examples of conflict within their own boards/police services and then chose one from each table to analyze using Dr. Pitsel's model for resolving conflict. The results of each analysis were presented to the group and discussed.

On to Executive Development

Executive Development

Mr. Grahame Baskerville, Vice Chair of the Ottawa-Carleton Regional Police Services Board, led the workshop on Executive Development. The workshop opened with the attendees being organized into two discussion groups. The leader gave a short overview of the competencies required by police executives and the inherent problems of developing these competencies within police organizations. The two groups then discussed the following topics: 1. A review of executive competencies and identification of the most critical ones; and 2. How critical competencies can be developed and what police boards/commissions can do to facilitate their development. Following

discussion, the groups presented their findings to the whole workshop, and Mr. Baskerville concluded with a summary of the ideas discussed.

One of the key points made by Mr. Baskerville was that competencies must be the focus of any discussion on the development of executives. Police services are unique organizations in that future senior officers must be developed from within. However, all competencies cannot be fully developed on the job. A combination of training, academic study, and a variety of challenging duties are needed to give police officers an opportunity to develop and test their leadership and managerial potential. It is up to the organization to foster an environment that promotes development of leadership skills for more than just a select few. Having a large pool of well-qualified persons, from which the best get promoted, will increase the overall performance of a service.

The workshop resulted in a list of competencies that participants believed were required in the categories of police service delivery, management, leadership, and communications. Delegates also developed a list of actions that could be taken by both the police service and the board/commission to facilitate the development of police executives. The latter included: mentoring senior officers; being prepared to invest in staff; funding self-education; encouraging assignments to outside organizations; sabbaticals for study and personal development; and having the chief identify future leaders to the Board.

Keynote Address: Technology In Policing: What The Future Holds

Mr. John Arnold, Chief Scientist of the Canadian Police Research Centre, began by explaining the background of the partnership between the Canadian Association of Chiefs of Police (CACP), the RCMP and the National Research Council (NRC) which led to the formation of the Canadian Police Research Centre (CPRC) in 1990.

In the early 1900's, the extent of technology in policing included perhaps one telephone per station, the car (with a maximum speed of approximately 30 mph) and the Colt 45, which was the gun used by police officers in those days. Today's technology includes such things as the transistor, the computer, body armour, DNA, laser radar, OC spray and the internet.

Mr. Arnold described some of the obstacles in developing technology for the police community. Developers often hear such arguments as, "it costs too much" and, "if it wasn't invented

CAPB Vice President, Herb Kreling introducing keynote speakers, John Arnold and Lance Valcour

here it can't be very good". The police community is very conservative by nature. They're not early adapters to technology because, in policing, a new product has to work well and it has to work every time.

Typically, in developing a new concept, developers start with an idea and then do some research to determine its feasibility. If it is feasible, they work with Canadian industry to create a pre-production prototype, but then police don't buy it. This problem was discussed with the CACP, who surveyed its membership to get input on why this was happening. One of the reasons identified by the survey, was that the police are not being involved early enough in the process.

Mr. Arnold highlighted five problems in getting the police community involved in information technology (IT). The first problem is that the IT world is complex: police services need secure and reliable IT, and they need to continually upgrade it. The second problem is training; it is expensive, on-going, and the first thing to go when budgets get cut. The third problem is resources, police services have no money to spare and little or no IT support. The fourth problem is information sharing; the police community needs positive information sharing, inter-service communication because of the mobility of criminals, and to maintain organizational memory when members are transferred or leave the organization. The fifth problem is the research and development investment; police are a small market and a tough sell, they don't have research and development dollars, they would rather buy "off the shelf", and innovators cannot afford to sell to police because of their budget cycles and budgetary constraints.

PS3 (an acronym for Public Safety in the 3rd Millennium) is the solution being recommended. It encourages the policing community and the Canadian technology industry to work together to develop "killer" applications - tools for them and with them. The PS3 solution can provide training tools as well as funding from innovation sources. It will allow for the development of expert systems to retain organizational memory, and allow for information sharing. Getting the policing community involved at the innovation stage of the development of new products will be beneficial for both sides.

The CPRC is developing a "test bed" for information technology development. It involves working with police departments to get them talking in a research and development environment over the internet. It will provide a tool for them to communicate and will deliver the technology over the internet. The possibility of delivering training over the internet is also being examined. The partners involved in this development include the CPRC, the CACP, the NRC, the RCMP, the policing community, educational organizations, CANARIE, federal, provincial and municipal governments, and the private sector.

Small to medium sized police services traditionally do not have a lot in terms of technology. However, they also don't have a lot of bureaucracy and they understand they can't do it alone. That's why the pilot project is linking them together for a potentially large impact. PS3 will identify IT needs at the grass roots, develop new "killer" applications for a test bed, fix any problems that arise and test the applications with users, and finally, transfer the final product to an established network. The benefits will include: providing the latest IT to police services; reducing IT costs for individual police services; boosting the industry; making IT delivery affordable; and creating collaborative partnerships.

In closing, Mr. Arnold predicted that the next century will bring innovations in road side drug testing, internet access from patrol cars, 3D facial identification, and crime scene DNA testing to help the policing community do their jobs better.

Mr. Lance Valcour, Staff Sergeant, Ottawa-Carleton Regional Police Service, talked about the rapid growth in the use of wireless communications through such devices as RIM (Research in Motion) pagers and palm pilots. He predicted that within the next couple of years, the vast majority of people will be using such devices. He also predicted that approximately 90% of the communication devices people will be using in 10 years have yet to be invented.

Wireless technology allows people to work from anywhere in the world. The negative side is that you're always connected, even during free time. He highlighted some of the technology being used and some that is being developed. For example, the RIM pager gives users the ability to send e-mail across the room or around the world. The firm Versaterm is currently researching how the devices could be used by front-line officers to check names and license plates. Palm pilots allow people to share business cards or other contact information simply by point the device at each other and pressing "send" as well as sending and receiving e-mail.

Staff Sergeant Valcour next talked about "Bluetooth" technology. It is not so much a technology as a standard and he believed it has great potential for benefiting the policing community. Any electronic device that contains bluetooth technology, either portable or fixed, discovers other devices and automatically shares information. For example, if a wrist watch containing bluetooth technology were worn by parolees, it would automatically advise police when that person is within 100 metres of a park or school or it could send warnings to partner assault victims. This technology currently exists, the policing community has to find ways to effectively use it to improve service delivery.

Staff Sergeant Valcour talked about GPS/AVL technology which means global positioning system and automated vehicle location. GPS is a satellite navigation system funded and controlled by the US Department of Defense. Its satellites, located around the globe, provide accuracy to within approximately 10 metres.

The driving forces behind GPS/AVL are officer safety and priority call management. The technology allows a police service to automatically locate officers and can therefore assist in identifying the closest units for call response. He noted Fredericton is currently conducting a pilot project with global positioning devices and Ottawa-Carleton has drafted a report to go to its board in the near future. Mr. Valcour cautioned there are many issues to be considered before embarking on the use of GPS/AVL technology and police boards will have to involve police associations in the discussions. GPS technology is already being used in boats and ATV's and can be used in such things as pagers, cellular phones, firearms, game boys and pet collars.

Other technologies to watch for include expert systems/neural networks, which try to replicate how the brain works; broadband applications such as 3D facial applications; and biometrics, which pertain to such things as finger prints and eye scans.

On the other hand, criminals also have access to technology and they usually get it faster than the police because they have the money. They implement it faster because they love using new technology to try and by-pass or beat police. It makes them harder to catch and it raises jurisdictional issues because, although one police service may investigate a crime, another jurisdiction may have to take ownership of the case and be prepared to take it to trial.

In closing, Mr. Valcour indicated the keys to success are to: understand what you are attempting to accomplish before you purchase new technology; ensure that current technology is being leveraged before new purchases are made; be innovative, creative and expect mistakes; and enter into partnerships but understand that partnerships are different from sponsorships.

Technology Discussion Groups

Following the presentations by Mr. Arnold and Staff Sergeant Valcour, delegates broke into small facilitated groups to discuss how new technology impacts on police services and boards. Using a scenario involving the acquisition of a new AVL/GPS system, the groups produced the following list of questions that boards can consider when acquiring new technology:

1.   What proof do we have that we need it?

2.	Does the initiative align itself with the strategic objectives of the police service and the financial plan?
3.	How is it going to improve service to the public, protect the staff, save money and improve efficiency and effectiveness?
4.	What is the company's reputation with other police services and have references and background checks been done?
5.	Does it fit in with board and city policies dealing with outside suppliers?
6.	What are the cost implications and risks?
7.	What, where and how will incremental costs be measured?
8.	What is the attitude of the police association/union?
9.	How will it improve productivity and efficiency through the deployment of physical and human resources?
10.	Do the benefits, effectiveness, security issues, evaluation, training and staff acceptability issues justify the bottom line costs?
11.	How do we sell it to stakeholders?
12.	What are the social and moral implications for implementing the system (ie. Big brother; slippery slope)?

Ministry Of Solicitor General Canada - Technological Innovations

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Ms. Marian Harymann, Acting Director, Law Enforcement Branch, Policing and Law Enforcement Directorate, Ministry of Solicitor General of Canada provided an overview of the DNA databank legislation. She noted June 30, 2000 marked the approval and proclamation of the DNA databank legislation. On that day, there were a number of prosecutors across the country, ready and waiting to make the first databank applications. They had asked to be contacted as soon as the legislation came into force and at 6:30 p.m., fifteen minutes after the legislation was enacted, the first databank authorization was received from a judge in Calgary for a case whose sentence expired that night at midnight. This was very exciting because it demonstrated the kind of cooperation and partnership that exists in the criminal justice system.

The DNA legislation included two phases. The first phase was the DNA warrant legislation implemented five years ago, which authorizes police to seek a DNA warrant in the investigation of a designated offence, otherwise known as a serious personal injury offense. The second phase is the DNA databank. It is based on two pieces of legislation, the DNA Identification Act, which actually creates the databank, and Bill S-10, which makes amendments to the National Defense Act in order to include convicted military offenders in the national DNA databank.

The DNA Identification Act attempts to strike the right balance between the need to provide the police with a useful investigative tool, and the need to protect the privacy and charter rights of all Canadians. To that end, the Act includes privacy safeguards on the collection, handling and the storage of DNA samples. It has been assessed by the Department of Justice and other legal experts as being constitutionally valid because: it is based on a DNA warrant scheme which has so far survived all constitutional challenges; it is restricted to the same serious offences as the DNA warrant scheme; and, in all cases it requires prior judicial authorization which is the case for any search and seizure in Canada.

The databank includes a crime scene index for DNA profiles derived from unsolved crime scenes. This is in addition to the convicted offenders index.

Because of its matching capabilities, the databank is expected to provide several benefits to the police and the courts. Each time a DNA profile is entered into the system, the bank does a simultaneous comparison with every other DNA profile in the bank in order to find a match. It is expected that this matching capacity will assist the police in identifying unknown suspects - particularly in cold cases that could be perhaps 20 to 30 years old. It can determine whether a series of offenses involved a serial offender by identifying the same profile at more than one crime scene. It will help focus investigations by allowing police to eliminate suspects and it is expected to provide a measure of deterrence because the profiles will be held in the databank for future reference.

There are three broad categories of individuals whose samples are included in the databank. The first category consists of civilian offenders, including previously sentenced high-risk federal offenders, dangerous offenders, repeat sex offenders, and serial murderers. On June 30, the Correctional Service of Canada identified about 2,100 federal offenders who meet the retroactive criteria of the legislation. The second broad category the legislation applies to is military offenders. These are offenders who have been convicted of designated offenses under the National Defense Act, which includes the same designated offenses as the Criminal Code as well as certain military offenses identical in nature to the Criminal Code offenses. The Department of National Defense has estimated that approximately six military offenders per year will be required to provide a databank sample. Finally, the legislation applies to young offenders who are convicted of designated offenses under the Criminal Code.

The legislation sets out a two-tiered approach to deciding whether samples are collected. Judges have very limited discretion on whether or not to impose a databank order for a person convicted of a primary designated offense such as murder, manslaughter, or aggravated sexual assault. It is expected that judges will impose a databank order in almost 100% of such cases. The only cases where judges are not required to impose an order is if the impact on the privacy and security of the person is grossly disproportionate to the public interest.

On the other hand, for secondary designated offenses such as robbery, arson, break and enter and some less serious sexual offenses, judges have broad discretion on whether or not to impose a databank order. In this particular type of case, before the judge can impose an order the crown must first make an application.

The legislation stipulates that samples are to be collected as soon as feasible after conviction. This wording was carefully crafted in order to allow the provinces and territories the flexibility they may require for sample collection. The legislation recognizes the practical impediments involved in having an officer available to collect samples just as a person is convicted and recognizes that what might be a feasible timeframe in New Brunswick may not be feasible in the North West Territories.

The legislation allows for indefinite retention of samples so that they may be re-analyzed in the event of technological advancements. However, there are exceptions to indefinite retention. If a person's conviction is overturned, the DNA sample must be destroyed and the profile removed from the databank. DNA profiles and samples must also be purged in accordance with the retention provisions that apply to absolute and conditional discharges and in accordance with the retention provisions of the Young Offenders' Act.

The legislation includes a number of safeguards and accountability mechanisms in order to ensure the secure control and use of DNA information. At the request of the Senate committee, Bill S-10 added a new principle to the DNA Identification Act which stipulates DNA samples and profiles may only be used for law enforcement purposes. The DNA Identification Regulations, which came into force on July 23, set out strict handling procedures for the collection, handling and transmittal of DNA information. Both the DNA Identification Act and the Criminal Code

include a new criminal offense for the misuse of DNA information. The maximum penalty for this offense is up to 2 years less a day.

The DNA Databank Advisory Committee Regulations, which came into force in May, authorize the Solicitor General to appoint an independent expert advisory committee to provide advice to the RCMP Commissioner on the operation and implementation of the databank. Bill S-10 also added a new requirement for the RCMP Commissioner to provide an annual report to the Solicitor General of Canada on the operation of the databank. The Solicitor General must then table the report in both houses of Parliament. The DNA legislation includes a requirement for a parliamentary review five years after its implementation.

Ms. Harymann maintained all of these mechanisms will ensure the transparency of the databank and enable both the public, the offenders who are directly affected by it, and the criminal justice system to assess whether or not the legislation is meeting its intended objectives, and to make any adjustments to the legislation over time to respond to evolving issues.

CAPB Secretary-Treasurer Shirley Cordiner with Jim Cadieux and Marian Harymann

Jim Cadieux, Head of Biology Section, RCMP Forensic Laboratory, noted that regional forensic laboratories in Canada have been conducting DNA testing and casework for approximately ten years. Now that the DNA databank has been implemented, the two processes will essentially be fuelling each other. The DNA typing profiles that will make up the crime scene index of the database will be developed in the regional laboratories. Forensic laboratories anticipate an increased workload because they will now be asked to develop DNA in cases where no suspect has been identified, in the hopes of identifying suspects through the databank. For example, in the case of a sexual assault where there are no suspects, a sample will be taken in an attempt to obtain the DNA profile of the perpetrator. If such a sample is successfully obtained, it will be queried against the convicted offender database. If police suspect a serial crime, the same sample will be queried against the crime scene index.

There are currently nine publicly funded forensic laboratories in Canada which conduct DNA testing, all of which will have access to the DNA databank. The RCMP have six such laboratories in Vancouver, Edmonton, Regina, Winnipeg, Ottawa and Halifax and there are three provincially funded laboratories in Toronto, Sault Ste. Marie and Montreal.

Before the establishment of the DNA databank, DNA typing in the forensic lab was fairly straight forward. A known sample, which could have come from a victim or a suspect, was required to compare to question samples either from another person, from a crime scene, or from an object involved in the commission of the offense.

The media has portrayed DNA profiles as a bar-code type of profile that you could visualize, but the actual DNA testing done now uses a much more sensitive technique. Scientists are getting profiles from everything from licked stamps to objects that a person has just held or touched. With the current system, scientists are testing nine different areas of the DNA molecule as well as a tenth area that identifies the sex of an individual.

The DNA casework experience to-date in Canada has shown that matches are being found in 75% to 80% of the cases where a DNA result has been obtained. More importantly to some people are the number of exclusions being found. Individuals who are truly innocent are having this proven through DNA testing.

The first biological type markers used in forensics were A, B, and O blood group systems. Next came enzyme typing for various blood groups substances, and microscopic hair comparisons. From all these testings, the best conclusions that could generally be drawn was that the sample could have been from an individual because they were consistent with coming from that person. Because such tests were not very reliable, the courts decided that samples could not be taken from someone involuntarily.

With the advent of DNA technology, the conclusions that are drawn are much more specific. As a result, law makers now feel it is important that such testing be done. Mandatory known samples are now in place both for the warrant legislation and the DNA databank.

In order to fully exploit the DNA technology for forensic purposes, a great deal of funding is needed as well as input from the stakeholders. Federal and provincial agencies have entered into a Biology Casework Agreement and will be sharing costs for biology casework to support the databank operations. Service standards and authorization processes are being developed and will be implemented in all forensic labs by April 1, 2001.

To give delegates a sense of the samples being submitted annually, Mr. Cadieux indicated the Halifax forensic lab, which services Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island, processed samples for a total of 166 primary designated offenses, 57 secondary designated offenses and 8 other offenses.

In closing, Mr. Cadieux shared the databank experience from another jurisdiction. The State of Florida first opened a convicted offenders database in 1991. It was 18 months before they got their first hit. After that, the hits were fairly sporadic over the next couple of years and came mostly from cold cases. In 1995 however, legislation was passed so that offenders convicted of aggravated battery were to be included in the databank legislation. In the first year after that legislative change, the hits quintupled to 19 per year and in 1998, seven years after opening the database, the matches were 67.

Mr. Cadieux cautioned there will not likely be any hits in Canada until there is an appreciable number of samples in the databank. However, laboratories have been storing crime scene samples over the last several years and they will be added to the databank as time progresses.

On to

Transparency & Accountability: Policy Implications Of Disclosing Police Officer Misconduct

Mr. Don Morrison, Police Complaint Commissioner, Province of British Columbia, explained the policy implications of disclosing police officer misconduct, using various examples from case law to support his points. A synopsis of his presentation follows.

What is required?

Prosecutors and law enforcement agencies need to establish guidelines to ensure that

prosecutors receive sufficient information concerning law enforcement witnesses, to meet their disclosure obligations.

Prosecutors should be made aware of the sensitive professional and privacy interests at stake and the need to maintain the confidentiality of personnel and disciplinary matters, unless disclosure is required.

Prosecutors and law enforcement agencies may find it beneficial to discuss the government's obligations to provide personnel and disciplinary information in their jurisdictions and perhaps create a formal policy to foster consistency in resolving this difficult issue. Suggested topics of discussion include:

1. the types of disciplinary information that must be disclosed;
2. the degree of certainty that misconduct has occurred, which triggers disclosure;
3. the stage in the investigation when disclosure must be made; and
4. the extent to which prosecutors may retain law enforcement personnel information in their systems or records for future retrieval.

Generally, relevant portions of documents containing the following categories of information should be provided to prosecutors:

- Any finding of misconduct, such as a disciplinary letter, that reflects on the officer-witness's truthfulness;
- Any findings of misconduct that indicate the officer-witness may be biased;
- Any credible allegation of misconduct, subject to a pending investigation, that reflects on the truthfulness or possible bias of the officer-witness;
- Any past criminal charge or pending criminal charge brought against the officer-witness; and
- Any Judicial comment on credibility of police evidence.

Future Obligations

Allegations of misconduct that are unsubstantiated or result in the officer's exoneration may be considered impeachment material, and thus, may have to be disclosed to the defense.

Police services should inform officers and other investigative personnel of their responsibility to advise prosecutors with whom they are working of potential impeachment information prior to testifying.

As part of court-ordered disclosure, a prosecutor also may request a particular employee's personnel file be reviewed for potential impeachment material. Procedures should be developed detailing how this request is made, whether there should be a showing that the employee is likely to testify, who in the police service should process the request and review the file, and what is the appropriate form of response.

The duty to disclose exculpatory information to the defense plainly includes some law enforcement personnel information. Determining the extent to which the police service or prosecutor has an obligation to provide personnel and disciplinary information concerning officers who may testify is a complicated endeavour, not subject to simple generalizations and often raising sensitive privacy and professional issues.

It is therefore essential that law enforcement agencies and prosecutors develop policies to guide the resolution of this issue and to provide notice to officers as to what information will be subject to disclosure.

Strategic Human Resources Analysis of Public Policing in Canada

A strategic human resources analysis of public policing in Canada was commissioned jointly by the CACP, the CPA and Human Resource Development Canada and is being conducted by the consulting firm Pricewaterhouse-Coopers. The CAPB has been participating, through its Executive Director, as a member of the steering committee overseeing the project.

Mr. Oliver Kent, Partner, PricewaterhouseCoopers provided delegates with an update on the study. He explained the study not only looks at where policing is at with regard to recruitment, but also at where it's going and what key challenges are ahead. The steering committee overseeing the study includes 40 members from across the country with representation from police associations, chiefs of police, training organizations, and other interested parties.

PricewaterhouseCoopers sees itself as a partner in the solution building process. There are disparate interests in this study, as in any other sector. The goal is to provide a process through which people can come to a common understanding of the facts and challenges, and then decide to move ahead.

There are four phases to the study. The methodology being followed is one that has been developed by HRDC over a series of similar projects. The first phase is to look at the context in which the sector is operating: what are the pressures on policing; how is policing changing; what are the changes in its operating environment; and, the increasing role of police boards. The second phase involves an employment analysis to determine who is working in policing, what their backgrounds are, what kind of training they have, and what the trends are in terms of turn-over. The study then looked specifically at training and human resource development to see what programs exist, and to determine whether they will be adequate to meet future needs. Phase four requires the compilation and analysis of all those facts into a report and action plan.

The activities completed to date include: an extensive document review; key expert interviews; site visits to police services and training institutions; a survey of policing services; attendance at selected conferences; and three steering committee meetings.

Pressures on the policing sector include: socio-demographic trends; public expectations; technology; regulation and legislation; economic and fiscal pressures, and changes in the structure of the sector itself.

At the beginning of the study, the steering committee identified 21 priority issues and, since then, more have been identified. The list includes a wide variety of issues which directly or indirectly affect the human resource aspect of public policing in Canada.

In terms of the findings to date, one of the areas of interest has been executive development. There is a sense that this area has in the past received less attention than others and it needs more focus than it has received. The issue was of particular concern for many of the chiefs interviewed in the course of the study, with the two greatest needs being identified as leadership development and formal management training. To a degree, educational institutions are already responding to these needs with new or improved programs, but more must be accomplished.

Furthermore, executive development can be very expensive both in terms of tuition fees and in time away from the office.

In terms of recruitment and selection, a great deal of research has been completed, including the standardization of selection processes and the use of competencies. There is a concern that the selection process is very focused on filling vacant positions and may not be filling longer term needs in terms of skill requirements for succession planning. The study has also shown there is more competition for candidates among police services and the private sector. There are more opportunities for movement. Several services have reported they are spending time and money recruiting, selecting and training candidates who then leave to join another service or to pursue careers in the private sector.

There is no standardization across the country or among police forces in terms of training standards or accreditation for police officers. Every province has a somewhat different approach and it is unclear whether this obstructs movement. Other issues such as pensions, collective agreements and legislation affect movement, however, there is a sense that movement is a more significant consideration than it used to be.

The role of public policing vis-à-vis private security is relevant to this study, partly because people may leave public policing as a career to work in the private sector. Also, depending on what the private sector is doing, it may affect the skill requirements in public policing.

Civilianization has been identified as an important issue. Statistics suggest there was a major up-trend in civilianization over a period of time, which leveled off in the mid-1990's. However, it has begun to increase again, particularly for management and professional positions in areas such as human resource and finance. Certain jobs within police services have typically been civilian, though they have traditionally been supervised by sworn officers. The civilianization of human resource positions is perhaps the most controversial because of their role in hiring, promotion and discipline. There is a perception that civilians don't understand the pressures and needs of police duty. There is also a lingering concern that positions for light duty have been eliminated because of civilianization and that officers who can no longer stand the rigours of patrol will not be looked after.

In terms of the governance of police services, it is recognized that an effective working relationship between the board or commission, the chief of police and the association or union is critical for effective management. In a variety of situations that have occurred across Canada in recent years, those relationships have become strained. Literature suggests that more training for municipal councils, board members and police managers on their roles and responsibilities would be beneficial.

The issue of the increasing "politicization" of policing has come up in a couple of contexts: increased political activism on the part of police associations; and the perceived interference by governing authorities in police operations. Some interviewees believed politicization to be one of the key causes of current labour-management unrest. Some officers believed that local governing bodies are too focused on the bottom line and do not understand the true nature of policing, thereby inhibiting strategic thinking and management. The literature indicates that police associations and unions are having increased influence over the development of policies and priorities for police services.

Budget cutbacks coupled with the rising costs of policing was one of the primary concerns of virtually every group interviewed for this study. This is seen as having a big impact on front-line strengths since there is limited money to replace unavailable personnel. There is a particular sensitivity around the replacement of people on maternity leave because that usually leads to

gender issues. Economic and fiscal pressures are also seen as having a significant impact on the availability of funds for technology and training.

Policing will continue to be in competition with other important public needs such as the health care system. Such public concerns affect the availability of funding for policing as well as for public prosecution, jails, and so forth.

Economic and fiscal pressures have led a number of police services across the country to undergo comprehensive reviews in order to reconcile demands with the budget available. There is an increased emphasis on partnerships with communities and other agencies, and some positions are now externally funded. Funding sources are getting more complex and issues are arising with respect to preserving priorities.

The next steps in the study will include: a complete survey analysis and curricula review; the completion of the various case studies undertaken; and a report on the findings. The next steering committee meeting is scheduled for mid-September and a final report is scheduled to be completed in January 2001.

End of 2000 Report.